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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

CHRIS KOHLER, Plaintiff, v. THE VONS COMPANIES, INC., Defendant. _______________________________/	Case No. 08cv0082 IEG (RBB) **Declaration of Lynn Hubbard, III, in Support of Kohler's Motion for Attorneys' Fees and Costs** Date: April 28, 2008 Time: 10:30 a.m. Ctrm: 1, 4th Floor Honorable Irma E. Gonzalez **[No Oral Argument Unless Requested by the Court]**

I, Lynn Hubbard, III, declare that I am duly licensed to practice in all the courts in the State of California, and if called as a witness and duly sworn, I would and could competently testify to the following based on my own personal knowledge:

SUMMARY OF THE CASE

1. This is a civil rights case for denial of access to a place of public accommodation and for failure to remove architectural barriers in violation of the Americans with Disabilities Act of 1990 (ADA), and California state laws. Plaintiff Chris Kohler ("plaintiff") sought injunctive relief, damages and attorneys' fees including litigation expenses and costs, pursuant to the ADA, 42 U.S.C. §12101, *et seq.*, California Civil Code §§51, 51.5, and §§54, *et seq.*, and California Health & Safety Code §19955, *et seq.*

2. I am familiar with the procedure for entering time and cost entries at the Disabled Advocacy Group, APLC, viz., a software program called TimeSlips. Attorneys and paralegals are instructed to record their time spent on a file immediately (or as soon as they are able).

PLAINTIFF'S FEE REQUEST

3. Plaintiff's attorneys' fees and costs calculate to $7,008.50. This amount includes $6,625.50 in attorney and paralegal fees and $383.00 in costs. These fees and costs were actually incurred, and were reasonable and necessary to effectively prosecute this case.

4. In achieving the relief described above, plaintiff's counsel spent a total of 23.75 hours, as follows:

Lynn Hubbard	16.95 hours @ $350/hr	=	$ 5,932.50
Scottlynn Hubbard	0.60 hours @ $225/hr	=	$ 135.00
Paralegals	6.20 hours @ $90/hr	=	$ 558.00
	Total		**$ 6,625.50**

5. Attached hereto as Exhibit "A" is an itemization of attorney and

paralegal time. This exhibit accurately reports the itemized tasks performed by counsel and counsel's personnel as contemporaneously recorded and maintained by the Disabled Advocacy Group, APLC.

6. As the Court may be aware, compensatory damage awards in disability access litigation are traditionally small in comparison to the equitable results achieved; as such, statutory attorneys' fees are essential to enforce anti-discrimination statutes. Recovery of statutory public interest attorneys' fees is a primary source of income for this office.

7. My billing rate for services performed in non-complex litigation is $350 per hour. This rate is based upon my education, knowledge and experience as a litigation strategist and trial lawyer, my years of practice, and my success rate. I charge $175 per hour for travel time.

QUALIFICATIONS OF PLAINTIFF'S COUNSEL

8. I graduated from Western State University College of Law and was admitted to the California bar in 1976.

9. I have been a trial attorney for over 30 years.

10. I have conducted in excess of 250 jury trials during my career.

11. I have received recognition from the California Trial Lawyers Association (1986) as a "plaintiff's personal injury" and "experienced trial" attorney.

12. In 1982 and 1987, I was certified by the State Bar California as a specialist in the field of criminal law.

13. I have over eight published decisions.

14. I have litigated in excess of 500 ADA/Title 24 cases. My office represents the disabled in the Eastern, Central and Southern Districts of California.

15. For the last eight years, more than 95% of my practice is and has been dedicated to protecting the rights of the disabled. The balance of my practice (5%) is devoted to selective cases wherein I feel the rights of an individual or a group of individuals have been adversely affected through no fault of their own. The 5%

balance of my practice rarely leads to the recovery of fees and/or costs.

16. Our office has handled over 500 access actions resulting in the removal of architectural barriers to make the public accommodation accessible.

17. I have authored videotapes and related workbooks on the preparation of plaintiffs for depositions.

18. My office is currently comprised of myself, two associate attorneys, one paralegal, a receptionist and a financial officer.

19. While my office is small, the hiring of associate attorneys and paralegal staff in today's highly competitive legal marketplace has increased my office's financial burdens. Rising salaries demanded by associates in California, along with paralegal staff, affect the cost burden associated with the overall legal community in Chico, California.

20. A summary of the qualifications of my associates and paralegals who worked on the case is as follows:

Paralegals:

The individuals listed below meet either of two criteria under Business and Professions Code Section 6450 for paralegals: (1) They hold a baccalaureate degree or an advanced degree in any subject, and have a minimum of one year of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of California for at least the preceding three years; or (2) They are a high school graduate and have a minimum of three years of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of California for at least the preceding three years. These individuals are qualified to perform paralegal tasks, and I bill $90 per hour for their time.

Crista Duncan - Crista Duncan graduated from Paradise High School in June of 2002, and immediately began working for the Law Offices of Chris Atherton (until June 2003). In July of 2003, Ms. Duncan was hired by the Law Offices of Lynn Hubbard, where she has held several positions of increasing responsibility. She completed the paralegal studies extension program at University of California - Davis (which program meets the paralegal requirements as outlined in Business & Professions Code Section 6450(c)(2)), and received her paralegal certificate in December 2005. During her tenure at my firm, she has been under my supervision, and is qualified to perform paralegal tasks.

Kaina Murray-Schukei - Kaina Murray-Schukei graduated from Shasta High School in June of 2000. She was hired by the Law Offices of Lynn Hubbard in June of 2005 as a calendar clerk, working her way up to the position of legal secretary, and finally, to Paralegal. She completed the Paralegal Studies Program at the University of California at Davis (whose program meets the paralegal requirements as outlined in the Business & Professions Code Section 6450 (c)(2)), and received her paralegal certificate in May 2007. During her tenure at my firm, she has been under my supervision, and is qualified to perform paralegal tasks.

21. A true and accurate itemization of costs incurred by my office in the prosecution of this matter are as follows:

Court Fees		$350.00
Process Servers		$33.00
	Total:	**$383.00**

_____22. Regarding the time and costs incurred on this case, a general overview will be addressed below:

Fees Incurred by Lead Attorney Lynn Hubbard, III

Phone calls to client: At the start of the litigation, I insist on either a personal meeting or telephone call with the client. In this case it was a phone call because Mr. Kohler is a previous client of the firm. During that call, she provided me with specific details of the barriers she personally encountered at the Sheraton.

Site Inspection, travel and note taking: It is my practice to travel to the site to view the facility and take notes in order to have first-hand knowledge of the accessibility issues that exist at the Facility.

Review answer to complaint: Every answer must be reviewed. ADA litigation is unique, and lawyers unfamiliar with the law will often file answers lacking the specific defenses. Reviewing the answer tells me if we are dealing with an amateur or seasoned defense lawyer.

In addition, even seasoned defense lawyers make mistakes in their pleadings, or include a defense that plaintiff may attempt to dismiss by way of motion.

Preparation of Attorney Fee Motion: My staff and I expended time preparing this motion for attorneys' fees, litigation expenses and costs to present to the Court and anticipate expending time in drafting and filing a reply.

Fees Incurred by Paralegals

Courts deciding fee motions have repeatedly held that it is not reasonable for attorneys to perform and bill for a task that can be taken care of by para-professionals. Accordingly, this office delegates as many tasks as possible to para-professionals, whose qualifications were already summarized. I charge $90 per hour for paralegal time.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 20th day of March 2008, at Chico, California.

/s/ Lynn Hubbard, III
Lynn Hubbard, III
Attorney for Plaintiff, Chris Kohler

EXHIBIT A

3/20/2008
8:45 AM

Law Offices of Lynn Hubbard, III
Slip Listing

Selection Criteria

Slip.Classification Open
Client (hand select) Include: Kohler v. Vons

Rate Info - identifies rate source and level

Slip ID / Dates and Time / Posting Status / Description		Timekeeper / Activity / Client / Phase/Task	Units / DNB Time / Est. Time / Variance	Rate / Rate Info / Bill Status	Slip Value
43285 12/6/2007 WIP Letter to client re barriers he encountered at site	TIME	Crista Correspondenc Kohler v. Vons	0.30 0.00 0.00 0.00	90.00 T@1	27.00
43271 12/28/2007 WIP Phone call with client re potential litigation	TIME	Hub Conf. - Phone Kohler v. Vons	0.40 0.00 0.40 0.00	350.00 T@4	140.00
43273 1/3/2008 WIP Site inspection, travel, and note taking	TIME	Hub Site Inspection Kohler v. Vons	3.00 0.00 0.00 0.00	350.00 T@4	1050.00
43272 1/4/2008 WIP Conflict Check	TIME	Hub Litigation Kohler v. Vons	0.30 0.00 0.00 0.00	350.00 T@4	105.00
43276 1/7/2008 WIP Create client file	TIME	Kaina Litigation Kohler v. Vons	0.40 0.00 0.40 0.00	90.00 T@1	36.00
43304 1/7/2008 WIP Travel to and from site (from SD hotel) and meeting at site w/client re barriers	TIME	Hub Site Inspection Kohler v. Vons	3.00 0.00 0.00 0.00	350.00 T@4	1050.00
43275 1/7/2008 WIP Research proper defendants to name in lawsuit	TIME	Kaina Research Kohler v. Vons	0.60 0.00 0.00 0.00	90.00 T@1	54.00

Slip ID / Dates and Time / Posting Status / Description			Timekeeper / Activity / Client / Phase/Task	Units / DNB Time / Est. Time / Variance	Rate / Rate Info / Bill Status	Slip Value
43286	TIME		Hub	0.30	350.00	105.00
1/8/2008			Correspondenc	0.00	T@4	
WIP			Kohler v. Vons	0.00		
Letter to client re fee agreement				0.00		
43279	TIME		Kaina	0.60	90.00	54.00
1/10/2008		1/16/2008	Litigation	0.00	T@1	
WIP			Kohler v. Vons	0.60		
Prepare and file Summons and Civil Case Cover Sheet				0.00		
43274	TIME		Atty-SJH	0.60	225.00	135.00
1/10/2008			Litigation	0.00	T@3	
WIP			Kohler v. Vons	0.00		
Draft Plaintiff's Ccomplaint				0.00		
43291	TIME		Hub	0.40	350.00	140.00
1/11/2008		1/23/2008	Litigation	0.00	T@4	
WIP			Kohler v. Vons	0.00		
Create client fee agreement				0.00		
43289	EXP		Expense	1	350.00	350.00
1/15/2008		2/18/2008	Court fees			
WIP			Kohler v. Vons			
Civil Court Case Filing Fee						
43278	TIME		Hub	0.40	350.00	140.00
1/16/2008			Review file	0.00	T@4	
WIP			Kohler v. Vons	0.00		Hold
Meet with Kaina re: service on defendants, case review, then p/c to client				0.00		
43277	TIME		Kaina	0.30	90.00	27.00
1/16/2008			Review file	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Meet with Hub re: service on defendants, completed filing, case review, etc				0.00		
43292	TIME		Kaina	0.30	90.00	27.00
1/18/2008			Litigation	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Prepare process serving request form; copy summons and complaint for service; overnight to All Pro for service`				0.00		
43290	EXP		Expense	1	33.00	33.00
1/23/2008			Process Server			
WIP			Kohler v. Vons			
Service of summons and complaint on defendant						

Slip ID / Dates and Time / Posting Status / Description			Timekeeper / Activity / Client / Phase/Task	Units / DNB Time / Est. Time / Variance	Rate / Rate Info / Bill Status	Slip Value
43293	TIME		Kaina	0.30	90.00	27.00
2/11/2008			Litigation	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Rcvd proof of summons; calendar last day for defendant to answer				0.00		
43281	TIME		Hub	1.00	350.00	350.00
2/11/2008		2/13/2008	Litigation	0.00	T@4	
WIP			Kohler v. Vons	0.00		Hold
Review defendant's answer				0.00		
43294	TIME		Kaina	0.30	90.00	27.00
2/12/2008			Litigation	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Update file with defendant's attorney information per answer; review case file with Hu				0.00		
43280	TIME		Kaina	0.50	90.00	45.00
2/13/2008			Litigation	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Review and update calendar re ENE order				0.00		
43284	TIME		Kaina	0.30	90.00	27.00
2/13/2008		2/14/2008	Correspondenc	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Letter to client re date and time of ENE conference - mandatory appearance				0.00		
43295	TIME		Kaina	0.40	90.00	36.00
2/14/2008			Correspondenc	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Correspondence w/defense counsel's office re arranging required on site meet and confer				0.00		
43282	TIME		Kaina	0.20	90.00	18.00
2/14/2008			Correspondenc	0.00	T@1	
WIP			Kohler v. Vons	0.00		
Letter to defense counsel re corrected time of meet and confer				0.00		
43283	TIME		Kaina	0.20	90.00	18.00
2/14/2008			Correspondenc	0.00	T@1	
WIP			Kohler v. Vons	0.20		
Letter to defense counsel re confirmation of date and time for meet and confer @ site				0.00		
43288	TIME		Hub	1.00	350.00	350.00
2/15/2008		2/18/2008	Litigation	0.00	T@4	
WIP			Kohler v. Vons	0.00		
Review defendant's Rule 68 Offer; compare				0.00		

Slip ID / Dates and Time / Posting Status / Description	Timekeeper / Activity / Client / Phase/Task	Units / DNB Time / Est. Time / Variance	Rate / Rate Info / Bill Status	Slip Value
injunctive relief offered to claims made in complaint				
43296 TIME 2/15/2008 WIP Phone call w/client re defendant's Rule 68 Offer	Hub Conf. - Phone Kohler v. Vons	0.70 0.00 0.00 0.00	350.00 T@4	245.00
43287 TIME 2/18/2008 WIP Prepare plaintiff's acceptance of defendant's Rule 68 Offer	Hub Litigation Kohler v. Vons	0.50 0.00 0.00 0.00	350.00 T@4	175.00
43302 TIME 3/5/2008 3/6/2008 WIP phone calls (multiple) w/Court clerk re Judgment	Kaina Conf. - Phone Kohler v. Vons	0.60 0.00 0.00 0.00	90.00 T@1	54.00
43297 TIME 3/6/2008 WIP Review and update calendar re: Judgment entered calendar last day to file atty fee motion and last day to file bill of costs	Kaina Litigation Kohler v. Vons	0.30 0.00 0.00 0.00	90.00 T@1	27.00
43300 TIME 3/6/2008 WIP Review email from Court clerk re Judgment has been entered	Kaina Correspondenc Kohler v. Vons	0.10 0.00 0.00 0.00	90.00 T@1	9.00
43301 TIME 3/6/2008 WIP Review email from defense counsel's office to Court Clerk re judgment preparation	Kaina Correspondenc Kohler v. Vons	0.10 0.00 0.10 0.00	90.00 T@1	9.00
43303 TIME 3/13/2008 3/14/2008 WIP Email correspondence with Rita of Fabiano's office re setting up the required meet and confer at the site	Kaina Correspondenc Kohler v. Vons	0.40 0.00 0.00 0.00	90.00 T@1	36.00

Slip ID / Dates and Time / Posting Status / Description		Timekeeper / Activity / Client / Phase/Task	Units / DNB Time / Est. Time / Variance	Rate / Rate Info / Bill Status	Slip Value
43298	TIME	Hub	1.60	350.00	560.00
3/17/2008		Litigation	0.00	T@4	
WIP		Kohler v. Vons	1.60		
Prepare bill of costs			0.00		
43299	TIME	Hub	4.35	350.00	1522.50
3/18/2008		Litigation	0.00	T@4	
WIP		Kohler v. Vons	0.00		
Prepare plaintiff's motion for attorneys' fees and costs, including declaration and exhibits			0.00		

Grand Total

Billable	23.75		7008.50
Unbillable	0.00		0.00
Total	23.75		7008.50